

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

RONALD and SONYA SCHMUCKER,
STEPHEN and LORI VANDIEPENBOS, and
RICHARD L. STEWART,

Plaintiffs,

v.

JOHNSON CONTROLS, INC. and
TOCON HOLDINGS, LLC,

Defendants.

Cause No. 3:14-cv-1593-JD

**DECLARATION OF THOMAS J. HALL IN
SUPPORT OF JCI'S MOTIONS TO STRIKE
THE OPINIONS OF DR. VASILIKI KERAMIDA AND DR. PETER ORRIS**

THOMAS J. HALL, an attorney duly admitted *pro hac vice* to practice before the United States District Court for the Northern District of Indiana in this action, hereby declares under the penalty of perjury that the following statements are true and correct pursuant to 28 U.S.C. § 1746:

1. I am a member of the law firm of Norton Rose Fulbright US LLP, which is co-counsel of record for Defendant Johnson Controls, Inc. ("JCI"). I submit this declaration in support of JCI's Motions to Exclude the expert opinions of Dr. Vasiliki Keramida and Dr. Peter Orris.

2. Pursuant to N.D. Indiana Local Rule 5-4(a)(7), attached hereto is an Index to the exhibits described in this Declaration.

3. Attached hereto as **Exhibit A** is a true and correct copy of the transcripts from the November 2 and November 3, 2017 deposition of Dr. Vasiliki Keramida in this action.

4. Attached hereto as **Exhibit B** is a true and correct copy of the Expert Opinion of Vasiliki Keramida, Ph.D., dated March 17, 2017 (JCI Dep. Exhibit 408), which Plaintiffs served on JCI in this action.

5. Attached hereto as **Exhibit C** is a true and correct copy of the Supplement to Expert Opinion of Dr. Vasiliki Keramida, dated April 26, 2017, which Plaintiffs served on JCI in this action.

6. Attached hereto as **Exhibit D** is a true and correct copy of a United States Environmental Protection Agency ("U.S. EPA") memorandum regarding Interpretation of Section 3008(h) of the Solid Waste Disposal Act, dated December 16, 1985, publicly available from the U.S. EPA at <https://www.epa.gov/sites/production/files/documents/s3008interauth-mem.pdf>.

7. Attached hereto as **Exhibit E** is a true and correct copy of a letter from Mr. Thomas E. Linson of the Indiana Department of Environmental Management ("IDEM") to Mr. Ronald Baker of JCI, dated August 16, 2000, which is a matter of public record in the IDEM Virtual File Cabinet ("VFC"), Doc # 29574652, and which IDEM produced in this action. The IDEM VFC is available at <https://vfc.idem.in.gov/DocumentSearch.aspx>. A document can be located by the Document Number by searching under "Document Search" and entering the number in "Full Text Search."

8. Attached hereto as **Exhibit F** is a true and correct copy of the transcript from the May 12, 2015 deposition of Dr. Vasiliki Keramida in the related action *Hostetler, et al. v. Johnson Controls, Inc., et al.*, 3:15-cv-00226-JD.

9. Attached hereto as **Exhibit G** is a true and correct copy of a Proposed Supplemental Site Investigation and Remediation Pilot Test Work Plan, dated September 8, 2017, which is a

matter of public record in IDEM's VFC, Doc #80518112, and which GZA GeoEnvironmental produced in this action.

10. Attached hereto as **Exhibit H** is a true and correct copy of excerpts from a Vapor Intrusion Assessment and Mitigation Report, dated July 12, 2012 (excerpts of JCI Dep. Exhibit 370), which is a matter of public record in IDEM's VFC, Doc #66430272, and which IDEM produced in this action.

11. Attached hereto as **Exhibit I** is a true and correct copy of excerpts from a First 2015 Semiannual Report, dated August 24, 2015 (excerpts of JCI Dep. Exhibit 371), which is a matter of public record in IDEM's VFC, Doc #8012804, and which GZA GeoEnvironmental, Inc. produced in this action.

12. Attached hereto as **Exhibit J** is a true and correct copy of excerpts from a First Semiannual Groundwater Monitoring Report, dated September 8, 2017, which is a matter of public record in IDEM's VFC, Doc #80518096, and which GZA GeoEnvironmental, Inc. produced in this action.

13. Attached hereto as **Exhibit K** is a true and correct copy of excerpts from the U.S. EPA's OSWER Technical Guide for Assessing and Mitigating the Vapor Intrusion Pathway From Subsurface Vapor Sources to Indoor Air, dated June 2015, publicly available from the U.S. EPA at <https://www.epa.gov/sites/production/files/2015-09/documents/oswer-vapor-intrusion-technical-guide-final.pdf>.

14. Attached hereto as **Exhibit L** is a true and correct copy of excerpts from IDEM's Remediation Closure Guide, dated March 22, 2012, with corrections through July 9, 2012, publicly available from IDEM at http://www.in.gov/idem/cleanups/files/remediation_closure_guide.pdf.

15. Attached hereto as **Exhibit M** is a true and correct copy of the U.S. EPA's Engineering Issue, Indoor Air Vapor Intrusion Mitigation Approaches, dated October 2008, publicly available from U.S. EPA at <https://www.epa.gov/sites/production/files/2015-09/documents/600r08115.pdf>.

16. Attached hereto as **Exhibit N** is a true and correct copy of the U.S. EPA's Fact Sheet #3, Final Remedy Selection for Results-Based RCRA Corrective Action, dated March 2000 (JCI Dep. Exhibit 429), publicly available from the U.S. EPA at <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100BQRK.PDF?Dockey=P100BQRK.PDF>.

17. Attached hereto as **Exhibit O** is a true and correct copy of an email from Michael Mccann of IDEM to Bernard Fenelon of GZA GeoEnvironmental, dated December 21, 2017, which is a matter of public record in IDEM's VFC, Doc # 80577346.

18. Attached hereto as **Exhibit P** is a true and correct copy of the Affidavit of Peter Orris, MD, MPH, dated March 17, 2017, which Plaintiffs served on JCI in this action.

19. Attached hereto as **Exhibit Q** is a true and correct copy of the transcript from the July 20, 2017 deposition of Dr. Peter Orris in this action.

20. Attached hereto as **Exhibit R** is a true and correct copy of three maps containing indoor air and sub-slab vapor TCE sampling results that were produced by Dr. Orris in this action.

21. Attached hereto as **Exhibit S** is a true and correct copy of an IDEM memorandum: Clarification Regarding Application of Trichloroethene Indoor Air Screening Levels, dated March 7, 2016, publicly available from IDEM at https://www.in.gov/idem/landquality/files/risc_screening_table_2016_announce.pdf.

22. Attached hereto as **Exhibit T** is a true and correct copy of tables detailing the results

of various utility backfill, sewer, indoor air, and sub-slab vapor testing conducted by GZA GeoEnvironmental (JCI Dep. Exhibit 372) and produced by GZA GeoEnvironmental in this action. These tables were later incorporated into **Exhibit J**, which is a matter of public record.

23. Attached hereto as **Exhibit U** is a true and correct copy of excerpts from the U.S. EPA *Toxicological Review of Trichloroethylene* (CAS No. 79-01-6) In Support of Summary of Information on the Integrated Risk Information System (IRIS), dated September 2011, publicly available from U.S. EPA at https://cfpub.epa.gov/ncea/iris/iris_documents/documents/toxreviews/0199tr/0199tr.pdf, and which Dr. Orris produced in this action.

24. Attached hereto as **Exhibit V** is a true and correct copy of an article written by Michihiro Kamijima, *et al.*, titled *Occupational trichloroethylene exposure as a cause of idiosyncratic generalized skin disorders and accompanying hepatitis similar to drug hypersensitivities*, dated November 15, 2006, which was produced by Dr. Orris in this action.

25. Attached hereto as **Exhibit W** is a true and correct copy of a report written by the Agency for Toxic Substances and Disease Registry titled *Impact of Trichloroethylene Exposure on Oral Motor, Speech, and Hearing in Children*, dated October 2002, which was produced by Dr. Orris in this action.

26. Attached hereto as **Exhibit X** is a true and correct copy of an article written by John S. Reif, *et al.*, titled *Neurobehavioral effects of exposure to trichloroethylene through a municipal water source*, dated June 24, 2003, which was produced by Dr. Orris in this action.

27. Attached hereto as **Exhibit Y** is a true and correct copy of an article written by Irina Lehmann, *et al.*, titled *Enhanced in vivo IgE production and T cell polarization toward the type 2 phenotype in association with indoor exposure to VOC: results of the LARS study*, dated August

21, 2001, which was produced by Dr. Orris in this action.

28. Attached hereto as **Exhibit Z** is a true and correct copy of an article written by Irina Lehmann, *et al.*, titled *The Influence of Maternal Exposure to Volatile Organic Compounds on the Cytokine Secretion Profile of Neonatal T cells*, dated March 15, 2002, which was produced by Dr. Orris in this action.

29. Attached hereto as **Exhibit AA** is a true and correct copy of a print-out from the U.S. EPA's website, titled "Basic Information about the Integrated Risk Information System," as it appeared on January 18, 2018 and available at <https://www.epa.gov/iris/basic-information-about-integrated-risk-information-system>.

30. Attached hereto as **Exhibit BB** is a true and correct copy of an article written by Barbara Charbotel, *et al.*, titled *Case-Control Study on Renal Cell Cancer and Occupational Exposure to Trichloroethylene. Part II: Epidemiological Aspects*, dated July 13, 2006, and available at <https://academic.oup.com/annweh/article/50/8/777/154544>.

Dated: JAN. 22, 2018



Thomas J. Hall